REMARKS

Claims 1 – 17 are pending and stand rejected. The Examiner's reconsideration of the rejection is respectfully requested in view of the above amendments and the following remarks.

The Examiner indicated that the Search Report cited in the IDS filed on August 31, 2000 has not been considered because a Search Report is not prior art. Applicant respectfully submits that the Search Report was included in the IDS for the convenience of the Examiner and not for purposes of citation as prior art. It is up to the Examiner whether to consider it.

Claims 1-17 were rejected under 35 USC 112, second paragraph, as being indefinite.

With respect to the confusion as to the meaning of "quality of service", applicant submits that this term was well known to one skilled in the art. A dictionary definition of "quality of service" (QOS) dated July 30, 1998 is enclosed which indicates that quality of service includes such things as throughput, transit delay, priority, etc.

Claim 1 is directed to, <u>inter alia</u>, quality of service management components for determining whether any communications pathway is available at the requested quality of service requirement. In other words, some communication pathways may be available but are not characterized by sufficiently high quality of service. The determination step assesses availability *based on* quality of service requirements. The 'wherein' clause objected to has been deleted.

Claim 8 has been amended to overcome the rejections under 35 U.S.C. 112.

For claim 10, on the meaning of "alternative action", the Examiner's attention is respectfully directed to page 9, lines 18-27, which indicate specifically what alternative action is taken if the desired quality of service is not available. Such action may include abandoning the communications or taking some other appropriate action, such as initiating a callback when the resources are available, camping onto the communications, or redirecting communications elsewhere, etc.

In claim 11, callback is related to the determination step as recited in claim 8(d) from which claim 11 depends. In claim 8(d), the quality of service management component determines the availability of the requested quality of service for establishing multimedia communications over a communications pathway. In the event that a negative response is sent by the quality of service management component to the originating multimedia computing device (claim 8(e)), then, according to claim 10, alternative action may be taken, including the employment of a callback feature (claim 11). The claimed features are described, for example, on page 9 of the specification.

In claim 12(b), the communication server determines features while the request to it is to establish communication between originator and destination devices. This feature is described, for example, on page 8, lines 14-19, wherein the communication service software of the communications server processes a request through the QOS comm module for determining the features necessary to establish communications (e.g. specific routing of the call, other aspects such as callback, camp-on, QOS requirements, etc.).

Claims 12-14 relate to a method of management and control of resources for multimedia communications. All of the recited steps in claims 12-14 are involved in management and control of resources for multimedia communications are all functionally related.

Accordingly, amended claims 1 – 17 are believed to satisfy the requirements of 35 USC §112. Withdrawal of the rejection is respectfully requested.

Claims 1-17 stand rejected for anticipation under 35 USC 102(a) as being anticipated by Markowitz (USP 6,484,212).

The rejection is respectfully traversed.[1]

Markowitz relates to a proxy apparatus for streaming media information to a user device that is connected to the proxy apparatus over a particular bandwidth. When the user requests media information to be provided from a media server, the proxy apparatus determines if a version of the media information encoded for the user device's connection bandwidth has been stored in the proxy server. If not, the proxy apparatus sends a request to the media server which, in response, streams media information to the user device at the specified bandwidth. However, if a version of the media information for the requested bandwidth is not available from the media server, the version for the largest bandwidth that does not exceed the bandwidth of the user device connection, is streamed to the user device.

In contrast with Markowitz, according to the present invention, the quality of

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[1] Applicant believes that the Examiner meant to cite 35 USC 102(e) as basis of rejection in view of Markowitz.

service management server assesses the availability of communications pathways at the quality of service requirements requested by the originating multimedia computing device and sends a positive or negative response to the originating device based upon the outcome of the availability query. This differs from Markowitz in that Markowitz does not generate any positive or negative response, but merely initiates streaming at the user device connection bandwidth or "the largest bandwidth that does not exceed the bandwidth of the user device connection". Consequently, there is no opportunity in Markowitz's system for the user device to take alternative action in the event of a negative response (claim 10), such as employing a callback feature (claim 11).

Accordingly, Markowitz does not disclose or suggest the sending of a positive or negative response from the quality of service management component/server to the originating multimedia computing device, as set forth in independent claims 1, 8 and 12. Therefore, claims 1, 8 and 12 are neither anticipated nor rendered obvious in view of Markowitz.

Claims 2 – 7 depend upon claim 1. Claims 9 – 11 depend upon claim 8 and claims 13 to 17 depend upon claim 12. The dependent claims are patentable for the reasons given above for the independent claims.

For the foregoing reasons, the present application including claims 1 – 17 is believed to be in condition for allowance.
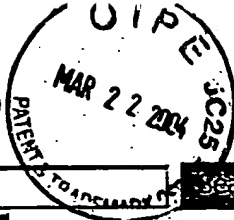
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qos

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QoS ==>

quality of service

<communications, networking> (QoS) The performance properties of a network service, possibly including throughput, transit delay, priority. Some protocols allow packets or streams to include QoS requirements.

(1998-07-30)

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